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ORDER 2000-10-4

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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 2nd day of October, 2000

Served: October 5, 2000

Agreements adopted by the Tariff :
Coordinating Conferences of the : Docket OST-1999-6202 -3
International Air Transport Association : R-1 through R-11
relating to passenger fare matters : Docket OST-2000-6723 -2

ORDER

Various members of the International Air Transport Association (IATA) have filed two agreements with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreements were adopted either at a meeting of the IATA Composite Passenger Tariff Coordinating Conference held in Montreal during July 19-23, 1999, or by mail vote.^{1/}

The agreement in Docket OST-1999-6202 proposes a variety of amendments, most of which are technical, editorial or clarifying in nature, to existing resolutions applicable on a worldwide basis. These include resolutions that establish a glossary of terms used in connection with IATA's Tariff Coordinating Conferences; set forth procedures and revise deadlines for converting fares into euros; govern the calculation of mileages and routes for tariff purposes; establish add-on fares for non-U.S. points; and establish discounts for children, charges for PTA services, and charges for excess baggage.

In addition, the agreement in Docket OST-1999-6202 introduces two new resolutions that touch on fare construction issues. The first is Resolution 011b which addresses the question of the fare construction method to be applied in the absence of an agreed fare for any given routing (Global Indicator) to be traveled.^{2/} The second is Resolution 040c which, generally speaking, brings together into a single resolution various existing provisions

^{1/} IATA memorandum PTC COMP 0501, Docket OST-1999-6202; and IATA memorandum PTC COMP 0559 (Mail Vote 056), Docket OST-2000-6723.

^{2/} The agreement in Docket OST-2000-6723 largely addresses the situation where a fare component has more than one global indicator.

governing the treatment of surface sectors. It establishes certain clarifying definitions, but does not introduce any new provisions relating to the treatment of surface breaks, with one exception. The new provision prohibits use of a "fictitious" surface sector at the origin of a pricing unit so that the price will be assessed from the true point of origin.

We have decided to approve the agreements, subject to all conditions that we have imposed previously, including the one recently imposed in Order 99-07-08, (July 14, 1999) which ensures that agents and carriers retain maximum flexibility in constructing fares so that they may compete effectively and obtain the best deal for their customers. Based on our review of the information submitted and other relevant material, we conclude that the approved agreements, as conditioned, will not result in fares or charges that are unlawful or injurious to competition in the markets at issue.

Acting under Title 49 of the United States Code (the Code), and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find the following resolutions, which are incorporated in the agreements in Dockets OST-1999-6202 and OST-2000-6723 as indicated and which have either direct or indirect application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-1999-6202</u>	<u>No</u>		
R-1	002q	Composite Special Amending Resolution	1;2;3;1/2; 2/3;3/1;1/2/3
R-2	010h	Special Passenger Currency Conversion Resolution-Euro	1;2;3;1/2; 2/3;3/1;1/2/3
R-3	011	Mileages and Routes for Tariff Purposes	1;2;3;1/2; 2/3;3/1;1/2/3
R-4	011b	Global Indicators	1;2;3;1/2; 2/3;3/1;1/2/3
R-5	012	Glossary of Terms	1;2;3;1/2; 2/3;3/1;1/2/3
R-6	015v	Add-on Amounts (Except in USA)	1/2
R-7	024d	Currency Names, Codes, Rounding Units and Acceptability of Currencies	2;1/2;2/3; 1/2/3
R-8	040c	Surface Sectors	1;2;3;1/2; 2/3;3/1;1/2/3

R-9	201	Children's and Infant's Fares	1;2;3;1/2; 2/3;3/1;1/2/3
<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-1999-6202</u>	<u>No</u>		
R-10	210	Charge for PTA Services	1;2;3;1/2; 2/3;3/1;1/2/3
R-11	300	Baggage Allowance Weight System	3

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-2000-6723</u>	<u>No</u>		
011b		Global Indicators	1;2;3;1/2; 2/3;3/1;1/2/3

2. These agreements are a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreements in Dockets OST-1999-6202 and OST-2000-6723 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-1999-6202 and OST-2000-6723, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

By:

FRANCISCO J. SANCHEZ
Assistant Secretary for Aviation
and International Affairs

(Seal)

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